

**UNITED STATES
PATENT AND TRADEMARK OFFICE**

uspto

**Patent Public Advisory Committee
Quarterly Meeting**

Legislative/Governmental Affairs Update

Dana Robert Colarulli
Director, Office of Governmental Affairs

February 1, 2018

UNITED STATES
PATENT AND TRADEMARK OFFICE



Nominee for Director of USPTO: Andrei Iancu

115th Congress, second session

- Pending USPTO Director Nomination
 - Nomination hearing before the Senate Judiciary Committee (November 29, 2017)
 - Chairman Grassley (R-IA) and Sen. Coons (D-DE) questioned Mr. Iancu
 - 55 QFRs
- On December 14, 2017, the Senate Judiciary Committee approved Mr. Iancu's nomination by unanimous consent
- Awaiting Vote by the Full Senate
 - 150 nominations maintained in status quo at end of the session (100 returned to WH)
- Mr. Iancu met with staff from Majority Leader McConnell (R-KY) and Minority Leader Schumer (D-NY) in January 2018

Congressional Activity – Calendar

115th Congress, second session

- **Federal Budget FY2018:** Operating under a Continuing Resolution (CR) until February 8, 2018 for FY2018.
- **Current Legislative Focus Areas:**
 - Budget / FY 2018 Appropriations
 - FY 2019 President's Budget
 - Immigration/Deferred Action for Childhood Arrivals (DACA)
 - Debt Ceiling (approx. March 2018)
 - Infrastructure

Congressional Activity –

115th Congress, , second session



Judiciary Committee Retirements and Changes

- **Senate Judiciary Committee**

- **Sens. Cory Booker** (D-NJ) and **Kamala Harris** (D-CA) were added to the SJC
- **Sen. Orrin Hatch** (R-UT) (President Pro Tempore) to retire

- **House Judiciary Committee**

- **Rep. Jerry Nadler** (D-NY) became the Ranking Member of the Full Committee (*replacing Rep. John Conyers (D-MI)*)
- **Rep. Hank Johnson** (D-GA), became the Ranking Member in the Subcommittee (*replacing Rep. Jerry Nadler (D-NY)*)
- **Chairman Robert Goodlatte** (R-VA) to retire
- **Rep. Darrell Issa** (R-CA), Chairman of the Subcommittee on the Courts, Intellectual Property and the Internet announced he was not running for reelection

Legislative Activity

115th Congress, second session

General Update

- Consideration of IP issues likely to be dominated by Copyright measures.
- Patent measures may also be considered addressing PTAB reforms, sovereign immunity and other issues.

Telework Enhancement Act Pilot Program (TEAPP) Extension

- USPTO's TEAPP authority expired on December 8, 2017
- H.R. 4171, a bill extending the program through December 31, 2020, was passed by the House on a voice vote on December 12, 2017
- Bill referred to the Senate Homeland Security and Governmental Affairs Committee

Legislative Activity

115th Congress

Tax Cuts and Jobs Act (Public Law No.115-97)

- **Signed into law on December 22, 2017**
- **Effects on intellectual property**
 - Excludes certain patents, designs and secret formulas or processes from the definition of “capital asset”
 - Removes the ability to treat such intellectual property as a capital asset that would have been subject to lower capital gains tax rate of 20%
 - Treats gain from the sale of such assets as ordinary income, subject to higher rates
 - Other provisions in the bill are intended to encourage a repatriation of US IP assets.

Shutdown dates	Congress	President	Days
Oct. 1 - 10, 1976	● House ● Senate	● Gerald Ford	10 
Oct. 1 - 12, 1977	● House ● Senate	● Jimmy Carter	12 
Nov. 1 - 8, 1977	● House ● Senate	● Jimmy Carter	8 
Dec. 1 - 8, 1977	● House ● Senate	● Jimmy Carter	8 
Oct. 1 - 17, 1978	● House ● Senate	● Jimmy Carter	17 
Oct. 1 - 11, 1979	● House ● Senate	● Jimmy Carter	11 
Nov. 21 - 22, 1981	● House ● Senate	● Ronald Reagan	2 
Oct. 1, 1982	● House ● Senate	● Ronald Reagan	1 
Dec. 18 - 20, 1982	● House ● Senate	● Ronald Reagan	3 
Nov. 11 - 13, 1983	● House ● Senate	● Ronald Reagan	3 
Oct. 1 - 2, 1984	● House ● Senate	● Ronald Reagan	2 
Oct. 4, 1984	● House ● Senate	● Ronald Reagan	1 
Oct. 17, 1986	● House ● Senate	● Ronald Reagan	1 
Dec. 19, 1987	● House ● Senate	● Ronald Reagan	1 
Oct. 6 - 8, 1990	● House ● Senate	● George H.W. Bush	3 
Nov. 14 - 18, 1995	● House ● Senate	● Bill Clinton	5 
Dec. 16, 1995 - Jan. 5, 1996	● House ● Senate	● Bill Clinton	21 
Oct. 1 - 16, 2013	● House ● Senate	● Barack Obama	16 

Federal government shutdowns since 1976

There have been 18 gaps in funding for the federal government during the last four decades.

** Source: CRS/CNN

CR History:

1994 -- the last time all appropriations bills were passed individually prior to the start of the fiscal year

1996 -- the last time the spending laws were passed on time (accomplished with an omnibus package of six spending bills)

Questions and Comments

Dana Robert Colarulli

Director, Office of Governmental Affairs

(571) 272-7300

Dana.Colarulli@USPTO.GOV



Resource Slide:

USPTO's Office of Governmental Affairs: Overview

Structure: 10 Staff (mix of attorneys and non-attorneys)

Core Mission

**Represent USPTO
on Capitol Hill**

*(Advance PTO's
legislative agenda,
prepare testimony, brief
staff, provide technical
advice)*

**Respond to
Requests from
Members of
Congress and
Facilitate
Clearance**

*(constituent issues, clear
IP policy documents
within the
Administration)*

**Build
Relationships and
Maintain Goodwill
with Elected
Officials**

*(Support regional office
engagement, build
fed/state relationships &
stakeholder outreach)*

